



# House of Representatives

General Assembly

**File No. 39**

February Session, 2014

Substitute House Bill No. 5044

*House of Representatives, March 19, 2014*

The Committee on Environment reported through REP. GENTILE of the 104th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING DOMESTICATED HORSES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective from passage*) (a) In any civil action  
2 brought against the owner or keeper of any horse, pony, donkey or  
3 mule to recover damages for any personal injury allegedly caused by  
4 such horse, pony, donkey or mule there shall be a presumption that  
5 such horse, pony, donkey or mule is domesticated, is not inherently  
6 dangerous and does not possess a vicious propensity. Such  
7 presumption may be rebutted by evidence that such horse, pony,  
8 donkey or mule was not raised or kept by a person.

9       (b) In any civil action brought against the owner or keeper of any  
10 horse, pony, donkey or mule to recover damages for any personal  
11 injury allegedly caused by such horse, pony, donkey or mule, evidence  
12 that such horse, pony, donkey or mule previously caused an injury to a  
13 person shall not be sufficient to establish a duty for such owner or  
14 keeper to restrain such horse, pony, donkey or mule as to prevent such  
15 horse, pony, donkey or mule from causing injury.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>from passage</i>	New section
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**ENV**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill, which makes changes to current law by creating a presumption that a horse, pony, donkey, or mule is domesticated, not inherently dangerous, and does not possess a vicious propensity, is not anticipated to result in a fiscal impact to the state or municipalities.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****sHB 5044*****AN ACT CONCERNING DOMESTICATED HORSES.*****SUMMARY:**

This bill reduces exposure to liability for the owner or keeper of a horse, pony, donkey, or mule in any civil action seeking to recover personal injury damages caused by the animal. A recent Connecticut appellate decision classified horses as an inherently dangerous species with vicious propensities because they possess a natural propensity to bite. The bill creates a presumption in any civil action brought against the owner or keeper of a horse, pony, donkey, or mule that the animal (1) is domesticated, (2) is not inherently dangerous, and (3) does not possess a vicious propensity. This classification is rebuttable with evidence that the animal was not raised or kept by a person (presumably this refers to a wild animal kept in captivity).

The bill also sets a higher evidentiary standard to establish that an individual animal had unusual dangerous tendencies. It declares evidence that the animal caused an injury in the past to be insufficient to impose the particular duty of care that applies to an animal with unusual dangerous tendencies.

EFFECTIVE DATE: Upon passage

**OWNER'S OR KEEPER'S DUTY OF CARE**

Under a recent case, the Appellate Court ruled an owner of a domesticated animal has a duty, under a two-part test, to use reasonable care to restrain the animal so as to prevent it from doing injury if the owner or keeper knows that the animal:

1. belongs to a species with vicious propensities, which means a natural tendency to engage in behavior that could be dangerous

to people or property, or

2. has an individual tendency to engage in behavior unusual to its species that could be dangerous to people or property (*Vendrella v. Astriab*, 133 Conn. App. 630 (2012)).

The first part of this test applies categorically to entire species, while the second part requires a case-by-case determination examining the behavior and characteristics of the individual animal in question.

The bill's reclassification of horses, ponies, donkeys, and mules as species of domestic animals that are not inherently dangerous and lack vicious propensities means the owner or keeper will not be liable under the first part of the test. This classification is rebuttable with evidence that the animal was not raised or kept by a person (presumably, this means a wild animal kept in captivity). Without such evidence, the bill prevents courts from imposing a duty on the owners and keepers of these animals under the first part of this test.

Under the second part of the test, an owner or keeper has a duty to use reasonable care to restrain a domesticated animal in order to prevent harm when the owner or keeper has actual or constructive knowledge that the animal has dangerous tendencies. The bill declares evidence that a horse, pony, donkey, or mule has caused an injury in the past to be insufficient to trigger the duty under this test. But the bill does not specify the level of evidence the new standard requires to be considered sufficient.

An appeal of the 2012 Appellate Court decision that classified horses as an inherently dangerous species with a vicious propensity is currently pending with the Connecticut Supreme Court (see BACKGROUND).

## **BACKGROUND**

### ***Vendrella v. Astriab***

In *Vendrella v. Astriab*, 133 Conn. App. 630 (2012), the Appellate Court held that (1) classification as domesticated does not necessarily

mean an animal is not vicious or inherently dangerous, and (2) horses' natural propensity to bite makes them inherently dangerous. The court held the owner of a domesticated animal has a duty to use reasonable care to restrain the animal in such a manner as to prevent it doing injury if the owner or keeper has actual or constructive knowledge that the animal either:

1. belongs to a species with vicious propensities, or
2. possesses vicious propensities unusual to its species.

Under the two-part test the court described, the owner of a horse would be obligated to use reasonable care to prevent harm if the owner had actual or constructive knowledge that horses were a species with vicious propensities, such as the natural propensity to bite.

The appeal of this decision to the Connecticut Supreme Court was limited to the question of whether "the Appellate Court properly concluded that a horse belongs to a species so naturally inclined to do mischief or be vicious to human beings that the minor plaintiff's injuries were reasonably foreseeable, regardless of whether the particular horse has shown a prior vicious disposition known to the keeper." The Supreme Court has not yet issued its decision.

### ***Vicious Propensity Defined***

In *Vendrella v. Astriab*, the Appellate Court also explained the phrase "vicious propensity" means any tendency on the part of a domestic animal to engage in behavior likely to cause injury to human beings under the circumstances in which the party controlling the animal places it. This behavior may include playfulness or curiosity on the part of the animal that may be potentially dangerous to people.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea     27     Nay   0     (03/07/2014)